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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/992,280 | 11/14/2001 | Fredrick Burnet | BOB1338-048B | 7667 |

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STANDLEY LAW GROUP LLP
495 METRO PLACE SOUTH
SUITE 210
DUBLIN, OH 43017

| EXAMINER | |
|---|---|
| MARKS, CHRISTINA M | |
| ART UNIT | PAPER NUMBER |
| 3713 | |

DATE MAILED: 11/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/992,280 | BURNET ET AL. | |
| | Examiner | Art Unit | |
| | C. Marks | 3713 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *22 September 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *22 September 2003* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

## DETAILED ACTION

### *Specification*

The objection to the specification for the usage of trademark words without proper capitalization has been withdrawn due to the amendment filed 22 September 2003.

### *Drawings*

The objection to the drawings for failing to show the output processing system has been withdrawn due to the corrected drawings filed 22 September 2003.

However, the drawings remain objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a flow chart to depict the method claims (Claims 17-18) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Objections*

The objection to the claims for not using proper indentation has been withdrawn due to the amended claims filed 22 September 2003.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 8-14, 17, and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Acres et al. (US Patent No. 5,741,183).

Though specific sections of the Acres et al. document may be cited, the rejection is based upon the disclosure of Acres et al. in its entirety.

Acres et al. disclose an apparatus for storing and collecting game data (Column 6, lines 64-65). The apparatus includes a game processing system (FIG 1) that includes a main controller (FIG 1, reference 18) and a plurality of unit controllers (FIG 1, references 12, 14, 16, etc.) that can be used together to play a multiple player game (Column 3, lines 12-15). For example, multiple gaming machines (unit controllers) can be used together in a multiple player game of a progressive jackpot competition. The system further comprises a data output system (FIG 2, reference 40) in communication with the game processing system (Column 9, lines 38-40) that keeps track of the coins in, coins out, coins to drop, games played, jackpot occurrence, and other related gaming functions (Column 8, lines 47-50). The data output system has a processor (FIG 2, reference 46) in the form of a micro controller (Column 8, lines 62-63) that serves as an output processing system for the output data to be sent to the game processing system, a plurality of I/O ports (FIG 2, reference 220, 224, 226, 225), a memory (FIG 2, reference 48) and a communications port (FIG 2, reference 201). The communications port connects the data output system to the data collection unit (FIG 1) in order to send accounting data. The system further comprises a data collection unit in the form of a file server (FIG 1, reference 32) having a data collection device which is realized through communication with the data output system (Column 32, lines 23-28) to communicate accounting data (Column 7, lines 1), such as the data disclosed above, to and from data output system (Column 32, lines 30-40). The data collection unit can be in wireless communication (Column 37, lines 51-54) with the

data output system via the communication port (FIG 2, reference 201). Inherently, the game processing system has a clock as the system is essentially a computer and computers are notoriously well known to use clocks as the clock signal it is inherent to their processing.

In regards to the method claims 18 and 19, Acres et al. also disclose a method of operating an accounting system for game data (Column 1, lines 10-12). The method includes operating a game having a game processing system (Column 2, lines 50-55). The accounting data is stored in the game processing system in the form of messages (Column 32, lines 38-40). A connection, embodied as wireless (Column 37, lines 52) is established between the game and a data collection unit (FIG 1) and the accounting data is sent to and stored on the data collection unit (Column 7, lines 43-46). The data can then be processed on the data collection unit into reports (Column 7, lines 46-49). The data is collected during the operation of the gaming device (Column 8, lines 47-50) thus not interrupting the performance of game play. The method also includes presenting an award of a prize to a player as cash and jackpots can be paid (Column 8, lines 48-49).

Though the system of Acres et al. is directed towards monitoring of a casino, one of ordinary skill in the art considers casinos, arcades, and any amusement area to be synonymous within the art. In the instant case, each contain devices created for the purpose of user amusement where the user interacts with the device in order to obtain a payout of a prize or a cash amount.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 6, 7, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres et al. (US Patent No. 5,741,183).

What Acres et al. disclose has been discussed above and is incorporated herein.

Acres et al. disclose that the communication within the network of the system can be a wireless or a high-speed network embodiment. Acres et al. do not disclose the exact method to which the communication port implements the wireless data transmission.

The noted means of communication claimed are all notoriously well known in the art as art related equivalents of ways to perform a data transmission over a network and thus their use would have been obvious to the system of Acres et al. that discloses such a high-speed or wireless network.

***Response to Arguments***

Applicant's arguments filed 22 September 2003 have been fully considered but they are not persuasive.

Regarding the Applicant's argument that Acres does not claim or describe the ability to manage the accounting for a multiple player game, the Examiner respectfully disagrees. Acres shows multiple player units (FIG 1) and embodies a multiple player game (Column 2, lines 50-55; Column 3, lines 1-15). This is supported by Acres stating that the networked gaming

devices can be involved in a progressive jackpot game wherein two or more gaming devices are combined (Column 3, lines 12-15).

Regarding the Applicant's argument that Acres does not have a data collection device as described in the present application, the Examiner respectfully disagrees. The Examiner reminds the Applicant, that it is the claim language that is compared to the prior art and not the device as described in the present application. Thus, the argument is not coterminous with what is being claimed (data collection unit having data collection device). Acres indeed discloses such a feature in stating the system further comprises a data collection unit in the form of a file server (FIG 1, reference 32) in communication (thus having) with the data output system (Column 32, lines 23-28) to communicate accounting data (Column 7, lines 1), such as the data disclosed above, to and from data output system (Column 32, lines 30-40). The data output system serves as the data collection device.

Regarding the Applicant's arguments that Acres does not disclose all of the elements and therefore cannot be extended to render the claimed present obvious, the Examiner respectfully disagrees. The argument is conclusionary as it points to no support for such a statement. Further, the Examiner has shown above the passages in Acres that disclose all of the elements.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Marks whose telephone number is (703)-305-7497. The examiner can normally be reached on Monday - Thursday (7:30AM - 5:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa J Walberg can be reached on (703)-308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703)-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1148.

cmm
November 12, 2003

Teresa Walberg
Supervisory Patent Examiner
Group 3700